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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-------------------------|-------------|----------------------|---------------------|------------------|
| 10/086,750 | 02/28/2002 | Russell P. Holmes | 101023-0012U | 8761 |
| 24267 | 7590 | 05/14/2004 | EXAMINER | |
| CESARI AND MCKENNA, LLP | | | HO, UYEN T | |
| 88 BLACK FALCON AVENUE | | | ART UNIT | |
| BOSTON, MA 02210 | | | PAPER NUMBER | |
| | | | 3731 | |
| DATE MAILED: 05/14/2004 | | | | |

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | | |
|------------------------------|-------------------------|--|---------------------|--|
| Office Action Summary | Application No. | | Applicant(s) | |
| | 10/086,750 | | HOLMES, RUSSELL P. | |
| | Examiner | | Art Unit | |
| | (Jackie) Tan-Uyen T. Ho | | 3731 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 February 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>2/28/02</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Information Disclosure Statement

1. The information disclosure statement (IDS) submitted on 02/28/2002 is acknowledged and considered.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-4, 7-11, 13-16 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Butler, Jr. et al. (5,863,260). Butler, Jr. et al. disclose a device including a tip and a shaft including all the limitations as claimed (Figures 3-8, col. 4, line 25 to col. 5, line 57). Note: The introductory statement of intended use and all other functional statements (for example: curette, scraping, scoop) have been carefully considered but are deemed not to impose any structural limitations on the claims distinguishable over the Butler, Jr. et al.'s device which is capable of being used as claimed if one desires to do so.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 5, 6, 17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Butler, Jr. et al. '260 in view of Meckel '936. Butler, Jr. et al. fails to disclose the tip member (64) being coated with durable coating material, titanium nitrate. Meckel disclose a device similar to the device of Butler, Jr. et al. which including a tip member being coated with durable coating material, titanium nitrate. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to coat the tip of Butler, Jr. et al.'s device with titanium nitrate in order to provide the tip with a corrosion-resistant, wear-resistant and impact resistant.

6. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Butler, Jr. et al. '260. Butler Jr. et al. disclose that the tip can be dismantled from the shaft in order to replace the damaged or worn tip or shaft. Although, Butler Jr. et al. fail to disclose the step of heating the epoxy until the epoxy softens and unscrewing the tip and shaft, it is known in the art to heat the glue until softens in order to easily dismantle two components attached together by glue. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to heat the glue (82) of Butler Jr. et al.'s device in order to easily unscrew the tip and the shaft.

7. Claims 1-4, 7-11, 13-16 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zwich (4,777,947). Zwich discloses a curette including a threaded tip with threaded indent and a threaded shaft with threaded indent and the shaft and the tip coupled together as claimed (figures 1-5, col. 3, lines 1-13). Although, Zwich fails to disclose the coupling region of the threaded shaft and the threaded tip including epoxy,

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it is known in the art to use epoxy glue to reinforce a coupling region. Therefore, it would have been obvious to one having ordinary skill in the art the time the invention was made to employ epoxy glue into the coupling region of Zwich's tip and shaft in order to enhance the bond between the shaft and tip of Zwich's curette.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to (Jackie) Tan-Uyen T. Ho whose telephone number is (703) 306-3421. The examiner can normally be reached on MULTIFLEX Mon. to Sat..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, McDermott or Shaver can be reached on 703-308-0858. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


(Jackie) Tan-Uyen T. Ho
Patent Examiner
Art Unit 3731
May 13, 2004